
(2023) 09 GAU CK 0011
In the Gauhati High Court
Case No : Writ Petition (Civil) No. 321 Of 2021

Kamdev Sarma	Vs	APPELLANT
State Of Assam And 7 Ors.		RESPONDENT

Date of Decision : 12-09-2023

Acts Referred:

National Council for Teacher Education Act, 1993 — Section 14

Citation : (2023) 09 GAU CK 0011

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : D K Sarmah

Final Decision : Disposed Of

Judgement

1. Heard Ms. A Talukdar, learned counsel for the petitioner, Mr. U Sarma, learned counsel for the respondents in the Secondary Education Department, Government of Assam, Mr. PJ Phukan, learned counsel for the respondent Gauhati University, Mr. I Alam, learned counsel for the respondents in the NCTE and Mr. S Barman, learned counsel for the respondent No. 4 Prasanna Das.

2. An issue for determination has arisen as to who between the writ petitioner Kamdev Sarma and the respondent No. 4 Prasanna Das would be entitled to be the Headmaster of the Borka High School in the Kamrup district. The dispute between the petitioner and the respondent No. 4 was determined by the Director of Secondary Education, Assam by his order dated 20.02.2020, the relevant portion of which is extracted below:-

"It is seen the above statement, Sri Kamdev Sarma is the senior than Prasanna Ch Das.

Sri Prasanna Ch Das obtained B.Ed Degree from Govt. Banikanta College of Education in the year 2017 and Sri Kamdev Sarma who obtained B.Ed Degree from Baihata Chariali B.Ed College, Baihata in the year 1996 where there was no NCTE recognition in the name of Baihata Chariali B.Ed College. Baihata Chariali

B.Ed College, Baihata Chariali got NCTE recognition on 25.11.1998.

Sri kamdev Sarma originally was working in Guiya M.V School and on 25-08-1998 he was transferred to Borka Girls M.E School from Guiya MV School and subsequently Borka Girls ME School had been amalgamated on 16-06-2017 with Borka High School.

Decision: In view of the above it is opined that although Sri Kamdev Sarma is senior to the Sri Prasanna Ch Das in terms of receiving Graduate Scale of Pay, but his B.Ed Degree obtained from Baihata Chariali B.Ed College, Baihata Chariali is not acceptable as there was no recognition by NCTE in the name of Baihata Chariali B.Ed College.”

3. A reading of the afore-extracted order of the Director makes it discernible that it was factually determined that the writ petitioner Kamdev Sarma is senior to the respondent No. 4 Prasanna Das, but the B.Ed. degree of the writ petitioner was unacceptable inasmuch as, when the degree was obtained in the year 1996, the Baihata Chariali B.Ed college from where the degree was obtained, did not have the NCTE recognition and it had the NCTE recognition only on 25.11.1998. Although references are made that the writ petitioner Kamdev Sarma was originally working in Guiya MV School and he was transferred to Borka Girls ME School on 25.08.1998 and subsequently Borka Girls ME School was amalgamated with the Borka High School on 16.06.2017, but there is no determination as such that because of such transfer, Kamdev Sarma would not be entitled to be the Headmaster. The aforesaid is only an incidental fact that had been narrated in the order. The reason as to why the claim to be the Headmaster of the writ petitioner Kamdev Sarma was rejected was that the Director of Secondary Education, Assam found his B.Ed. degree to be unacceptable.

4. In the affidavit-in-opposition filed by the Director of Secondary Education, Assam it had been explained as to why the Director deemed it appropriate that the B.Ed. degree of the writ petitioner Kamdev Sarma is unacceptable and the reason stated is that the petitioner procured the B.Ed. degree from Baihata Charali B.Ed. College in the year 1996 when there was no NCTE recognition of the college and further that under Section 14 of the National Council for Teacher Education Act, 1993 (in short, Act of 1993), an application for recognition of the B.Ed. college was required to have been made within a period of six months from the appointed date as stated in the Act of 1993.

5. According to the Director, the appointed date is 01.07.1995 whereas the application by the Baihata Charali B.Ed. College was made on 04.02.1998. The law regarding recognition of a B.Ed. degree obtained through a B.Ed. college was settled by this Court in this judgment dated 25.02.2021 in WP(C)/3289/2020. In paragraph 4 of the judgment dated 25.02.2021 the provisions of Section 14 of the Act of 1993 was taken note of and the period of six months referred in the proviso to Section 14 would otherwise have been 10.01.1996, but in paragraph 6 of the said judgment, it was taken note that by the communication dated

29.07.1997 the said date stood extended upto 18.08.1997 meaning thereby that if any B.Ed. college had made their application for recognition before the authorities in the NCTE on or prior to 18.08.1997, the B.Ed. degree that may be obtained through such B.Ed. college would be a valid B.Ed. degree.

6. As per the affidavit by the Director, the date of application of Baihata Charali B.Ed. College was taken note to have been made on 04.02.1998. The basis of the date of application to be 04.02.1998 is stated to be a communication dated 24.02.1998 from the Regional Director of NCTE made to the Principal of Baihata Charali B.Ed. College, which is available as Annexure-O, page-40 to the writ petition.

7. A reading of the said communication dated 24.02.1998 makes it discernable that the NCTE had communicated to the Principal of Baihata Charali B.Ed. College that the application dated 04.02.1998 is stated to be a subsequent representation. If the application dated 04.02.1998 is a subsequent representation, logically it can be inferred that there was also a prior application by the Baihata Charali B.Ed. College. Annexure-2, page-51 in the paper book is the application made by the President/Secretary of Baihata Charali B.Ed. College to the Regional Director of NCTE for grant of recognition, which is dated 02.05.1997. In other words, the date of application made by the Baihata Charali B.Ed. College to the authorities in the NCTE seeking the recognition would have to be accepted to be 02.05.1997. The said fact is also accepted to be correct by the learned counsel for the NCTE that as per their records, the date of application seeking recognition by the Baihata Charali B.Ed. College is 02.05.1997.

8. If the date of application is accepted to be 02.05.1997, where as per the judgment dated 25.02.2021 in WP(C)/3289/2020 the date of application for recognition ought to have been on or before 18.08.1997, in the instant case where the application for recognition by the Baihata Charali B.Ed. College is dated 02.05.1997, a conclusion would have to be arrived that the Baihata Charali B.Ed. College had made their application seeking recognition within the accepted extended date for making such application.

9. In view of such conclusion any B.Ed. degree that may have been obtained through the Baihata Charali B.Ed. College would have to be understood under the law to be a valid and acceptable B.Ed. degree.

10. In view of the aforesaid conclusion, the aforesaid order dated 20.02.2020 of the Director of Secondary Education, Assam is set aside and the matter stands remanded back to the Director to pass an appropriate order taking note of the conclusions arrived hereinabove that the B.Ed. degree of the petitioner Kamdev Sarma obtained through the Baihata Charali B.Ed. College would be an acceptable and valid B.Ed. degree. The requirement of passing the reasoned order be done within a period of one month from the date of receipt of certified copy of this order.

11. The respondent no. 4 has raised certain other issues on the question as to

who should be the Headmaster.

12. We are not going into the other issues raised by the respondent no. 4 inasmuch as being a respondent in a writ petition, an independent legal right cannot be allowed to be espoused and if so advised the respondent no. 4 may file appropriate application espousing his legal rights.

Writ petition stands disposed of accordingly.